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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,726	11/25/2003	Gary P. Raden	MS306092.01	5768

27195 7590 03/22/2007

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EXAMINER
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JEAN GILLES, JUDE

ART UNIT	PAPER NUMBER
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2143

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/721,726	RADEN ET AL.	
	Examiner	Art Unit	
	Jude J. Jean-Gilles	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/13/2004</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

This office action is responsive to communication filed on 11/25/2003.

#### *Information Disclosure Statement*

1. The references listed on the Information Disclosure Statement submitted on 05/13/2004 have been considered by the examiner (see attached PTO-1449A).

#### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1-9, 11-13, 15, 18-25, 28-39** are rejected under 35 U.S.C. 102(e) as being anticipated by Ikeda et al (Ikeda), Patent No. 2003/0063571 A1.

Regarding **claims 1-9, 11-13, 15, 18-25, 28-39** Ikeda discloses:

1. A system that facilitates determining a state of a networked system, comprising: a component that obtains system data corresponding to a plurality of system components (0008); and an aggregator that analyzes at least a subset of the system data and generates an output corresponding to a state of a subset of the plurality of system components (0035-0037; 0135; 0170, 0200; 0245; also see fig. 7, item 12).

2. The system of claim 1, additionally comprising a remote access component that provides a user with remote access to the output (fig. 45; item 10\_4).
3. The system of claim 1, the component comprising a polling component that polls the plurality of system components to obtain the system data (0046; note the function of the route analyzer in performing the polling based on connection state information; 0244).
4. The system of claim 1, the aggregator comprising a distributed database engine (topology collector 11).
5. The system of claim 1, the aggregator aggregates the system data in accordance with predetermined rules (0045).
6. The system of claim 5, the predetermined rules comprising aggregation of data within a single system (0013; *note that collecting opposed topology information of a node directly or indirectly routed to the node to which the network topology collection device itself belongs entails collection of more than one system*).
7. The system of claim 5, the predetermined rules comprising aggregation of data with a plurality of systems (fig. 1B; 0014-0018).

8. The system of claim 1, at least one of the plurality of system components comprising a system component that sends data to the component unprompted (0082).

9. The system of claim 8, the unprompted system component utilizes at least one selected from the group consisting of unicasting, multicasting, and broadcasting techniques to send data to the component (0082).

11. The system of claim 1, the system components comprising at least one selected from the group consisting of a running process, a data source, and a data log (0009).

12. The system of claim 1, the output comprising hidden information obtained via data mining of aggregated system data (0009).

13. The system of claim 12, the hidden information comprising at least one selected from the group consisting of system diagnosis information and system prognosis information (0012-0018).

15. The system of claim 1, the output comprising a status report (0009).

18. The system of claim 1, the output utilized to detect faulty errors in the networked system (0065, 0266).

19. The system of claim 1, the output utilized to provide automatic system updates in response to the state of the subset of the plurality of system components (0011).

20. The system of claim 1, the output comprising at least one system control parameter (0011).

21. The system of claim 20, the system control parameter comprising at least one selected from the group consisting of a load shed command and a load balancing command (0056-0059; *note that using such command is inherent for the purpose of accomplishing the objective of this invention*).

22. The system of claim 20, the system control parameter comprising a security preservation action to maintain security of at least one networked system (0004).

23. The system of claim 20, the system control parameter comprising a remedial action to maintain operation of at least one networked system (0013-0015).

24. The system of claim 1, the state comprising at least one selected from the group consisting of a previous state, a current state, and a future state (0035-0037; 0135).

25. The system of claim 1, the state comprising a health status state of a networked

system comprising the plurality of components (0035-0037; 0135;0170, 0200; 0245).

28. A method for facilitating state determination of a networked system, comprising: obtaining system data corresponding to a plurality of system components; aggregating, according to predetermined rules, at least a portion of the system data corresponding to at least a subset of the plurality of system components; analyzing at least a portion of the aggregated system data; and generating an output corresponding to a state of the subset of the plurality of system components (0008; 0035-0037; 0135;0170, 0200; 0245; also see fig. 7, item 12).

29. The method of claim 28, further comprising: sending the output to a selectable recipient at a selectable rate in a selectable manner (0035-0037; 0135;0170, 0200; 0245).

30. The method of claim 28, further comprising: customizing the output according to a set of rules determined by a user (0035-0037; 0135;0170, 0200; 0245).

31. The method of claim 28, further comprising: controlling an aspect of the networked system in response to the output corresponding to the state of the subset of the plurality of system components (0035-0037; 0135;0170, 0200; 0245).

32. The method of claim 31, the aspect comprising an operational system parameter

responsible for maintaining operation of the networked system (0035-0037; 0135;0170).

33. The method of claim 31, the aspect comprising software updating to automatically maintain proper operation of the networked system (0035-0037; 0135;0170).

34. A system that facilitates determining a state of a networked system, comprising:  
means for obtaining system data corresponding to at least a subset of a plurality of system components; and means for aggregating at least a portion of the obtained data; and means for analyzing at least a subset of the portion of the obtained data to generate an output corresponding to a state of the subset of the plurality of system components (0035-0037; 0135;0170, 0200; 0245; also see fig. 7, item 12).

35. A system that employs at least one system of claim 1 to provide a remotely accessible state determination service (fig. 7).

36. The system of claim 35, the state determination service comprising an aggregation, analysis, and control service for at least one networked system pertaining to at least one system administrator (0035-0037; 0135;0170, 0200; 0245).

37. A method that employs the method of claim 28 in a multiple networked system service environment to determine and predict common errors across at least a subset of the multiple systems (0035-0037; 0170, 0200).



38. A data packet transmitted between two or more computer components that facilitates networked system state determination, the data packet comprising, at least in part, information relating to a state of a networked system, the state determined via aggregation and analysis of data from at least a subset of system components of the networked system (0035-0037; 0135;0170, 0200; 0245; fig. 7)

39. A computer readable medium having stored thereon computer executable components of the system of claim 1 (fig. 7)

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 10, 14, 16, 17, 26, 27, 40, and 41** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ikeda in view of Anerousis et al (Anerousis) U.S. Patent No. 6,393,472 B1.

**Regarding claim 10:** Ikeda discloses the invention substantially as claimed. Ikeda teaches the system that facilitates determining a state of resource in a network system, but fail to specifically disclose a server as a component of the system.

In the same field of endeavor, Anerousis discloses an “ Referring to FIG. 6, the Management Aggregation and Visualization Server (MAVS) 1 is a management agent designed to handle aggregations of network management information. Every AMO must be instantiated within a MAVS” [see Anerousis; *fig. 6, column 10, lines 60-65*]. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Anerousis’ teachings of using at least one server in the network resource with the teachings of Ikeda, for the purpose of improving the ability of a network “...for providing a management information model and a distributed object services model. The models allow for the automatic aggregation of network management information in spatial, temporal and functional forms, and the automatic visualization of managed objects over the world-wide-web.” as stated by Anerousis in lines 56-63 of column 4. By this rationale, **claim 10** is rejected.

**Regarding claim 14, 16, 17, 26, 27, 40, and 41:** The combination Ikeda-Anerousis teaches:

14. The system of claim 1, the output comprising a user customizable output (see Anerousis, column 2, lines 12-20; column 9, lines 44-50).

16. The system of claim 15, the status report relating to at least one selected from the group consisting of system performance data, system health data, and system utilization data (see Anerousis; column 6, lines 36-57).

17. The system of claim 1, the output comprising at least one schema table to provide optimal access of data relating to the output (see Anerousis; see abstract).

26. The system of claim 25, the health status state comprising at least one selected from the group consisting of a previous health status state, a current health status state, and a future health status state (0035-0037; 0135;0170, 0200; 0245; and see Anerousis, column 2, lines 12-20; column 9, lines 44-50).

27. The system of claim 1, at least a portion of the system data corresponding to the plurality of system components is generated by at least one selected from the group consisting of a health monitor, a performance monitor, and a utilization monitor (0035-0037; 0135;0170, 0200; 0245; see Anerousis, column 2, lines 12-20; column 9, lines 44-50).

40. A device employing the method of claim 28 comprising at least one selected from the group consisting of a computer, a server, and a handheld electronic device (see Anerousis; *fig. 6, column 10, lines 60-65*).

41. A device employing the system of claim 1 comprising at least one selected from the group consisting of a computer, a server, and a handheld electronic device. (see Anerousis; *fig. 6, column 10, lines 60-65*).

**Conclusion**

6. Accordingly, **THIS ACTION IS MADE NON-FINAL**. The Examiner strongly anticipate a Final Rejection Office Action on the next response if amendments are not properly made to the claims to perhaps place them in condition for allowance.

Any inquiry concerning this communication or earlier communications from examiner should be directed to Jude Jean-Gilles whose telephone number is (571) 272-3914. The examiner can normally be reached on Monday-Thursday and every other Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley, can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-9000.

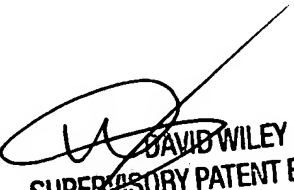
Jude Jean-Gilles

Patent Examiner

Art Unit 2143

JJG

March 15, 2007

  
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